

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA

2018 JUN 18 A 11:05

PRISONER COMPLAINT
[FOR INMATE ACTION] UNDER 42 U.S.C. § 1983U.S. DISTRICT COURT
N.D. OF ALABAMAMitchell Marbury
Name under which you were convicted

4:18-cv-00925-CLS-JHE

#138014-A-108
Your prison numberCIVIL ACTION NO. N/A
(To be supplied by Clerk of Court)

vs.

DeWayne Estes, Warden III, Warden II, Cedric Specks,
Name of Defendant(s) Capt. Carlo Graham3700 Holman Unit, Atmore, AL 36507
Place of Confinement and AddressINSTRUCTIONS - READ CAREFULLY

A. Complaint Form. You must file your original complaint and a copy for each named Defendant. Your complaint must be clearly handwritten or typewritten. Do not use the back of a page. Your complaint must be signed by you; no notary is required. Any false statement of material fact may serve as the basis for prosecution for perjury.

B. Proper Court. Your complaint can only be brought in this Court if a defendant is located in the Southern District of Alabama and the rest of the defendants are located in Alabama or if your claim arose in this district. The Southern District of Alabama is comprised of the following counties: Baldwin, Clarke, Choctaw, Conecuh, Dallas, Escambia, Hale, Marengo, Mobile, Monroe, Perry, Washington, and Wilcox.

C. Separate Case. It is necessary to file a separate complaint form for each claim unless the claims are related to the same incident or issue.

D. Defendants. The persons who are listed as defendants in section III of the complaint are deemed by the Court to be the only defendants to this action. A defendant's present address must be provided. The Court is unable to serve process without the present address being furnished. The first defendant listed in section III should be the defendant that you list in the style of your case on your complaint form and motion to proceed without prepayment of fees and costs, if applicable, and any other pleading filed with the Court.

A. Have you filed any other lawsuits in state or federal court dealing with the same or similar facts involved in this action:

Yes (☒) No ()

B. Have you filed other lawsuits in state or federal court relating to your imprisonment:

Yes (☒) No ()

C. If your answer to questions A or B above is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using this same outline.)

1. Parties to this previous lawsuit:

Plaintiffs: Mitchell Mosbury

Defendants: DeWayne Foster, Warden III; Beverly Warner
C.O. 3

2. Court (if federal court, name the district; if state court, name the county): Northern
District of Alabama

3. Docket Number: _____

4. Were you granted the opportunity to proceed without payment of filing fees?

Yes (☒) No ()

5. Name of judge to whom the case was assigned: _____

6. If your case is no longer pending and has been dismissed, state the reason given by the Court as to why your case was dismissed, i.e., frivolous, malicious, failed to state a claim, defendants were immune, etc.

7. Approximate date of filing lawsuit: 7/13/016

8. Approximate date of ruling by court: _____

II. YOUR PRESENT COMPLAINT.

A. Place or institution where action complained of occurred: 1000 St. Clair Rd Springville, Mo, Ald

B. Date it occurred: January 6, 2018

C. Is there a prisoner grievance procedure in this institution? No

D. Did you present the facts relating to your complaint in the state prisoner grievance procedure?
Yes () & No ()

E. If your answer is YES:

1. What steps did you take? Wrote complaint letters to Warden and Deputy Warden and Capt. Graham
2. What was the result? No response received

F. If your answer is NO, explain why not: There is no formal grievance procedure for prisoners to exhaust within the D.C.

G. Your claim (briefly explain your claim: what, when, where, who; do not cite cases; you may, without leave of Court, add up to five (5) additional pages if necessary):

(1) This is a civil action brought pursuant to 42 U.S.C. 1983 and the Fourteenth and Eighth Amendments to the U.S. Constitution. The plaintiff seeks declaratory and conjunctive relief to compensate him for the harm he has suffered and continues to suffer, plaintiff also seeks compensatory and punitive damages.

(2) This court have subject-matter jurisdiction of this case pursuant to 42 U.S.C. 1983. Parties

A Plaintiff

(3) Plaintiff Mitchell Marbury is a citizen of the United States who is being confined to the

CONTINUES

III. PARTIES.

A. Plaintiff (Your name/AIS): Mitchell Morbury #138014

Your present address: 3700 Holmes Rd, Alameda, AL 36803

B. Defendant(s):

1. Defendant (full name) N/A is employed as N/A at N/A.

His/her present address is N/A.

(a) Claim against this defendant: N/A

(b) Supporting facts (Include date/location of incident):

N/A

2. Defendant (full name) N/A is employed as N/A

at N/A.

His/her present address is N/A.

(a) Claim against this defendant: N/A

(b) Supporting facts (Include date/location of incident):

N/A

3. Defendant (full name) N/A is employed as N/A

at N/A.

His/her present address is N/A.

(a) Claim against this defendant: N/A

(b) Supporting facts (Include date/location of incident):

N/A

C. Additional Defendants: (If there are additional defendants, you may list them on separate pages using the same outline above).

IV. A. You must answer the following questions:

1. State the conviction(s) for which you are presently incarcerated: N/A

2. When were you convicted? N/A

3. What is the term of your sentence? N/A

4. When did you start serving this sentence? N/A

5. Do you have any other convictions which form the basis of a future sentence?
Yes () No (☒)

If so, complete the following:

(a) Date of conviction: N/A

(b) Term of sentence: N/A

6. What is your expected end of sentence (E.O.S.) date? N/A

B. If this present lawsuit concerns your criminal conviction or sentence, state whether your conviction has been:

	Conviction	Sentence
Reversed	yes() no()	yes() no()
Expunged	yes() no()	yes() no()
Invalidated	yes() no()	yes() no()

Writ of habeas yes() no() yes() no()
corpus granted

C. If you answered yes to any of the questions, state the Court or entity that relieved you from your conviction or sentence and the date: N/A

V. State briefly exactly what you want the Court to do for you if you win (make no legal argument, cite no cases or statutes):

VI. AFFIRMATION. By my signature below, I swear or affirm under penalty of perjury that the facts set out in this complaint are true and correct.

6/13/18
Date

M. Marley
(Signature of Plaintiff Under Penalty of Perjury)

3780 McJannet Rd
Current Mailing Address

Albion, AL 36503

N/A
Telephone Number

PLAINTIFF SHALL IMMEDIATELY ADVISE THE COURT IN WRITING OF ANY CHANGE IN HIS ADDRESS. E.G., RELEASED, TRANSFERRED, MOVED, ETC. FAILURE TO NOTIFY THE COURT OF A NEW ADDRESS WILL RESULT IN THE DISMISSAL OF THIS ACTION FOR FAILURE TO PROSECUTE AND TO OBEY THE COURT'S ORDER.

CONTINUE FROM PAGE-(5)

The prison population at Holman Corr. Facility. Plaintiff sues for himself as an individual.

B. Defendants

(4) Defendant DeWayne Estes is the warden at St. Clair Corr. Facility...He is directly and immediately responsible for the operation of the institution and for the treatment afforded all inmates within it.

He is being sued in his individual capacity for damages and in his official capacity for declaratory and injunctive relief. His address is;1000 St. Clair,Rd Springville,Al 35146

(5) Defendant Cedric Specks is the deputy warden of security and discipline at St. Clair Corr. Facility. He is being sued in his individual capacity for declaratory and injunctive relief. His address is;1000 St. Clair,Rd Springville,Al 35146

(6) Defendant Capt. Carla Graham is the correctional officer population supervisor at St. Clair Corr. Facility. She is being sued in her individual capacity for damages and in her official capacity for declaratory and injunctive relief. Her address is;1000 St. Clair,Rd Springville,Al 35146

Wherefore,plaintiff respectfully requests that the court assume jurisdiction of this action and award the plaintiff the following relief:

(1) Grant the plaintiff and order requiring the defendants to make him whole by granting appropriate relief,declaratory relief, awarding compensatory damages against each defendant in the amount of \$400,000.00 (Four Hundred Thousand Dollars);Plus interest,attorney fees,expenses and costs.

(2) Plaintiff further prays the court for an injunction enjoining the defendants from again engaging in the conduct complained of,ordering them to pay plaintiffs' attorney fees, costs,and all expenses associated with this lawsuit.

(3) Such other,further or different relief as this court may deem just & proper.

STATEMENT OF FACTS

(7) On or about Aug. 22, 2017, Plaintiff and others was made known after being transferred from Holman to St. Clair, and once being assigned to L-2-Block in population, that such transferr was temporary and plaintiff and those that came with him would be transferred back to Holman in the near future, as explained by Cedric Specks, Warden, II, in [L-2-Block].

(8) After being informed by the deputy warden Specks, that this transferr would occure, Plaintiff requested on the 19th of Oct. 2017, could he be placed in segregation untile transferred, due to fear of retaliation of the 2016, stabbing incident, by unknown individuals. Only to be told by Cedric Specks "To get a knife or pay the Crips, I.G.Ds', or Blood for some protection." But never were plaintiff placed in segregation.

(9) Plaintiff verbally spoke with Capt. Carla Graham requesting her if she could have plaintiff submitted to segregation due to being in fear of retaliation of the 2016, stabbing incident, and since plaintiff return, there's yet constantly rapping, stabbing, and murdering continueously. One, where plaintiff and others witness a supervisor give a knife to an inmate to go stabb another inmate without any officer interferring. Carla Graham responded by stating "From my investigation the guy who stabbed you have been transferred." Yet, plaintiff were not placed in segregation as he requested."

(10) November 22, 2017, Plaintiff droped a self addressed envelope enclosed with a written complaint into the warden mail box, requesting to be placed in segregation due to fear of retaliation from the stabbing incident, in 2016, by unknown inmates.

(11) Plaintiff further made it known that since his return he has witness several stabbing incidents. One, where a supervisor gave a knife back to an inmate to go stabb another inmate, prior to returning, and plaintiff feared for his safety, due to a lack of security, where at times the cubicle of L-2-Block would be unpreoccupied with no officer on post for hours, placing inmates life in danger due to hostile living envirimnt at St. Clair Correction Facility.

(12) Plaintiff made it known that he felt unsafe due to fear of retaliation and the hostile living environment, due to all the incidents involving the rapping, stabbing, extortion, and murdering that have occurred within the past and present Ten years, did request to be transferred or placed in segregation.

(13) Plaintiff made it known that there were inmates living in cells that had not been assigned to these cells by the administration at St. Clair. These inmates took the initiative to move themselves due to a lack of security and fear within the C.O.I.'s themselves, this act of disobedience, sent a message to the administration at St. Clair of who ran the prison in the absence of any correction by the authority of the administration at St. Clair Correction Facility. Yet, after a written complaint was sent to Estes, requesting to be placed in segregation plaintiff never received a response and never were plaintiff placed in segregation.

(14) January 9, 2018, approximately in the neighborhood of 7:25 a.m., plaintiff was in his cell [L-2-Block, 36-Cell], looking out the cell window, with the cell door open, when out of nowhere, as plaintiff went to turn to see who it was entering the cell, plaintiff was hit in the head with a blunt object, that knocked plaintiff unconscious, until awakened by an inmate right before security entered and found this inmate in the cell trying to help plaintiff recover from such a blow!

(15) Security upon entering the block from the outside, discovered this individual inmate trying to help plaintiff and mistakenly thought plaintiff and this inmate were in a physical altercation, so upon their investigation decided this was the individual inmate that assaulted plaintiff, by hitting plaintiff in the head with a 20lb. weight dumbbell, even after plaintiff tried explaining he could not make out who it was that assaulted him, because it happened so fast, plaintiff never got a chance to actually make out a face. This individual inmate were taken to segregation, and plaintiff were taken to the prison infirmary and further

transferred to U.A.B. Hospital in Birmingham,Al where plaintiff underwent a "Cat Scam" for head trauma, and further medical treatment for any other injuries that might be notice from this further medical evaluation untile plaintiff released from U.A.B. Medical Treatment center January 11,2018.

(16) Plaintiff submitted a complaint to Defendant Estes, and verbally spoke with Specks, who refused to investigate the matter and imediately place plaintiff in segregation or place plaintiff on transferr.

(17) Based upon information, belief and personal knowledge defendants Estes and Specks and other staffs have repeatedly abused inmates and allowed inmates-on-inmates assualts in voilation of the Civil Rights of inmates.

(18) Defendant Estes and Specks have refused to take any remedial action to prevent the assaults against inmates-on-inmates assualts as Marbury. In addition, these defendants have been aware of widespread abuse at St. Clair Facility.

DEPRIVATION OF PLAINTIFF CIVIL RIGHTS, INMATES-ON-INMATES
ASSAULT/DELIBERATE INDIFFERENCE

(19) The plaintiff hereby restates, realleges and incorporates by inference herein the allegations set forth in paragraphs 1 through 18 above.

(20) The plaintiff bring this action pursuant to 42 USC 1983.

(21) Based on the factual allegations set set out above, the defendants, acting in their official capacity, while acting under the color of State law, unlawfully deprived the plaintiff of his rights guaranteed to him under the constitution of the United States under the Eighth and Fourteenth Amendment.

(22) The defendants have also voilated plaintiff rights by denying plaintiff protection, which amounts to deliberate indifference and constitutes cruel and unusual punishment.

(23) By failing to take remedial action on behalf of plaintiff the defendants have shown a deliberate indifference and constitutes cruel and unusual punishment due to unsafe condition where security is not carried out.

(24) Defendants have committed, allowed and or permitted said violations on numerous occasions..

(25) As a result of the defendants' action, the plaintiff has suffered physical and mental injuries and his federally protected rights have been violated.

(27) Because defendants' conduct was gross, willful and oppressive the plaintiff has and does claim punitive damages.

(28) The plaintiff claims attorney's fees and expenses pursuant to 42 USC 1988.

(29) Award punitive damages against each defendant in the amount of \$200,000.00 (Two Hundred Thousand Dollars).